

Amendments to the Drawings

The attached sheet of drawings includes changes to FIG. 7. This sheet replaces the original sheet of Fig. 7. Replacement Fig. 7 now includes a scissors jack, which is one possible structural embodiment of the claimed adjustable assembly, which is labeled as element 216. Label 216 has also been added to the drawing. Support for the amendment can be found in the specification and claims as originally filed, such as at pages 10, lines 18-32 to page 11, lines 1-3, for example.

Attachment: Replacement Sheet

Remarks

Claims 1-12, and 16-20 are pending in the present application. Claims 13-15, which were previously withdrawn due to a restriction requirement, are canceled. Claims 1, 6, 16, and 18 are amended herein, for clarification. No new matter has been entered.

Objections

The drawings were objected to under 37 CFR 1.83(a) under the argument that the drawings fail to show all features recited in the claims. Fig. 7 presently shows a scissors jack 216, which is one possible embodiment of an adjustable assembly 216, as described in the specification. *See generally* page 10, lines 18-32 to page 11, lines 1-3. As a result, this objection should be withdrawn.

The specification was rejected for informalities for stating that the support can be moved along both horizontal and vertical axes relative to the base. The examiner asserted that movement was in the horizontal plane. The slidable support presently discloses that the slidable support moves lengthwise and widthwise. Accordingly, the rejection should be removed.

Rejections under § 112, second paragraph

Claims 1-12 and 16-20 were rejected under 35 U.S.C. § 112, second paragraph, under the argument that the claims are unclear. Claims 1 and 16 recite, *inter alia*, "friction reducing members configured to reduce the amount of friction between the support surface and a container moving on the support surface". As a result, the rejections are moot, because the manner of reducing friction is specifically provided. This claim amendment is supported on page 7, lines 9-25 of the specification, for example, which states: "[t]he friction reducing members 28 are capable of receiving a container 260 and reducing the amount of friction

between a container 260 and support surface 25 such that the container 260 can move more smoothly onto and off of the dolly device 12 upon being loaded or unloaded."

Similar to the above informality objections, claims 6 and 18 were rejected under § 112, ¶ 2 under the argument that the "vertical" and "horizontal" claim language is unclear. Claims 6 and 18 presently recite lengthwise and widthwise instead of horizontal and vertical. Thus, these rejections are moot and should be withdrawn.

Rejection under § 102(b) in light of Spath (US 5,846,043)

Claims 1-4 and 7-11 were rejected under 35 U.S.C. § 102(b) under the argument that the claims are anticipated by Spath (US 5,846,043). This rejection is respectfully traversed.

Under § 102(b), "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Spath fails to teach all claimed elements.

Claim 1 recites a dolly device for loading and unloading a container comprising, *inter alia*, a control frame mounted above the base and the support surface for pivoting between a plurality of operational positions. The control frame is configured to selectively limit the movement of a container supported on the support surface. The dolly device further comprises a locking mechanism having a plurality of locking positions configured to selectively hold the control frame in a plurality of stop positions.

Spath teaches a cart and caddie system for storing and transporting standard, multi-gallon water bottles. The Spath system fails to teach a control frame for pivoting between a plurality of operating positions. Spath's device includes a set of removable safety bars 18 and 19 inserted in holes of side posts 11 and 12, or 13 and 14 respectively, wherein the safety bars may block water bottles from falling off the deck 21. Spath does not teach that safety bars

may pivot between a plurality of operating positions. While operating, these safety bars are merely stationary bars disposed in the side posts 11 and 12. Spath provides no teaching or suggestion that the safety bars may pivot between a plurality of operating positions as recited in the claimed invention.

Moreover, Spath fails to teach a locking mechanism having a plurality of locking positions configured to selectively hold the control frame in a plurality of stop positions as recited in claim 1. Spath's locking mechanism only locks the safety bar in one stop position, when the safety bars are inserted into the sideposts. Spath fails to teach a locking mechanism operable to lock the control frame in a plurality of stop positions, and further fails to teach a locking mechanism operable to select a stop position among the plurality of stop positions. Accordingly, Spath does not teach the recited elements of claim 1 and all claims dependent thereon, thus the rejection under 35 U.S.C. 102(b) should be withdrawn.

Rejection under § 103(a)

Claims 5 and 6 were rejected under the argument that the claims are unpatentable under 35 U.S.C. § 103(a) in view of Spath and Johnson (U.S. 4,120,411). Claims 12, 16, 17, 19, and 20 were rejected under the argument that the claims are unpatentable under 35 U.S.C. § 103(a) in view of Spath and Eaddy (U.S. 2,448,300). Claim 18 was rejected under the argument that the claim is unpatentable under 35 U.S.C. § 103(a) in view of Spath, Eaddy, and Johnson. These rejections are respectfully traversed.

To establish a prima facie case of obviousness under § 103, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP 2143. None of the cited references cure the above noted deficiencies of Spath, thus a prima facie of obviousness is not established. Johnson is cited for teaching battery carts for transporting and unloading electrical batteries, and is further cited for teaching a frame moveable in the

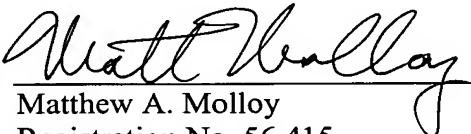
horizontal direction. Johnson fails to teach a control frame or a locking mechanism as recited in independent claims 1 or 16. Moreover, Eaddy's battery filling truck also does not include a control frame or a locking mechanism as recited in independent claims 1 or 16.

Consequently, none of the references, singularly or in combination, teach or suggest all elements of independent claims 1 and 16, thus a prima facie case of obviousness has not been established. Accordingly, claims 1 and 16 and all claims dependent thereon are in condition for allowance, and the rejections under 35 U.S.C. 103(a) should be withdrawn.

The Applicants respectfully submit that the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully requested.

Respectfully submitted,

DINSMORE & SHOHL LLP

By 
Matthew A. Molloy
Registration No. 56,415

One Dayton Centre
One South Main Street, Suite 1300
Dayton, Ohio 45402
Telephone: (937) 449-6400
Facsimile: (937) 449-6405
e-mail: matthew.molloy@dinslaw.com